FILED
JUL 9 195
CHARLES ELMORE CR

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1951.

No. 181

KAM KOON WAN, on His Own Behalf and on Behalf of All Other Persons and Employees of Defendant Who Are Similarly Situated,
Petitioners,

vs.

E. E. BLACK, LTD., a Hawaiian Corporation,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Ninth Circuit.

SAMUEL LANDAU,
301 McCandless Building,
Honolulu 16, Hawaii,

ALFRED G. GOLDBERG and
DAVID PREVIANT,
Of the Firm of
PADWAY, GOLDBERG & PREVIANT,
511 Warner Theatre Building,
212 West Wisconsin Avenue,
Milwaukee 3, Wisconsin,
Counsel for Petitioners.

St. Louis Law Printing Co., 415 North Eighth Street. CEntral 4477.

INDEX.

	Page
Opinions below	1
Jurisdiction	2
Question presented	3
Statutes involved	3
Statement	5
Specification of errors to be urged	8
Reasons for granting the writ	9
I.	
Fear of military sanctions under the circumstances herein does not constitute a good-faith defense	9
A. The decisions below destroy claims of thousands of workingmen	9
B. Respondent's defense is not a "good faith" defense under the Statute	10
II.	
The military orders do not provide a good-faith defense under the Portal-to-Portal Act of 1947 as applied to the undisputed facts of this case, because the orders exempted employments covered by the Fair Labor Standards Act	12
III.	
The affidavits filed by respondent were not sufficient "proof" within the meaning of Section 9 of the Portal-to-Portal Act of 1947	15
Conclusion	16

Appendix I. General Orders No. 38..... 19

Appendix II. General Orders No. 91..... 21

Appendix III. Wage Schedule No. 9, Laborers and Mechanics 23

Table of Cases.

Bauler v. Pressed Steel Car Co., 81 F. Supp. 172, 176.. 10
Burke v. Mesta Machine Co., 79 F. Supp. 588.....10, 16

Camiano v. Rifkin, 77 F. Supp. 363..... 16
Cochran v. Fox Chase Bank, 209 Pa. 34, 58 A. 117.... 10
Colket v. St. Louis Union Trust Company, 52 F. 2d 390, 391 10

Divens v. Hazeltine Electronics Corp., 79 F. Supp. 513 16
Dow v. Johnson, 100 U. S. 158, 169..... 15
Duncan v. Kahanamoku, 327 U. S. 304.....14, 15

Ex Parte Milligan, 4 Wall. (U. S.) 2, 141, 18 L. Ed. 281, 302 14

Ferrer v. Waterman Steamship Corp., 84 F. Supp. 680 .....10, 16

Jackson v. Northwest Airlines, Inc., 76 F. Supp. 121, 125 16

Powell v. United States Cartridge Co., 339 U. S. 497, at 519 13

Sheppard v. American Dredging Co., 77 F. Supp. 73... 16
Siano v. Helvering, 13 F. Supp. 776, 780..... 10

United States v. Lindholm, 79 F. 2d 784..... 16
United States v. Powell, 330 U. S. 238, 240..... 17
United States v. Standard Oil Co., 332 U. S. 301, 302, note 2 17
United States v. Stevenson, 79 F. 2d 788..... 16

Statutes Cited.

Fair Labor Standards Act of 1938, 52 Stat. 1060, 29 U. S. C., Secs. 207, 216 ..... 2, 3, 5
Hawaiian Organic Act, par. 67, 31 Stat. 153 (1900), 48 U. S. C., Sec. 532 ..... 5, 13
Portal-to-Portal Act of 1947, 61 Stat. 84, 29 U. S. C., Sec. 9 ..... 2, 3, 6, 8, 15
28 U. S. C., Sec. 1254 (1) 2

Miscellaneous Authorities.

General Orders No. 38 ..... 5, 14, 19
General Orders No. 91 ..... 6, 8, 14, 21
Interpretative Bulletin of the Administrator of Wage and Hour Division, Nov. 18, 1946, Sec. 790.15, 12 F. R. 7662 10
Statement of Congressman Gwynne, 93 Cong. Rec., Part II, p. 1941 10
Statement of Congressman Walter, 93 Cong. Rec., Part IV, p. 4390 10
Statement of Senator McGrath, 93 Cong. Rec., Part II, p. 2255 10
Wage Schedule No. 9, Laborers and Mechanics 6, 15, 23